

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:
THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,
Debtor.¹

PROMESA
Title III
No. 17 BK 3283-LTS
(Jointly Administered)

In re:
THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,
as representative of
PUERTO RICO ELECTRIC POWER AUTHORITY

Debtor.

PROMESA Title III

Case No. 17-BK-4780 (LTS)

**SREAEE’S SUR-REPLY TO “REPLY IN SUPPORT OF MOTION OF THE OFFICIAL
COMMITTEE OF RETIRED EMPLOYEES OF THE COMMONWEALTH OF PUERTO
RICO REGARDING REPRESENTATION OF PREPA RETIREES”**

To the Honorable Court:

COMES NOW, Sistema de Retiro de los Empleados de la Autoridad de Energía Eléctrica ("SREAEE"), creditor and party in interest, through its undersigned attorneys, and hereby respectfully submits this Sur-Reply to Reply in Support of Motion of The Official Committee of Retired Employees of the Commonwealth of Puerto Rico Regarding Representation of PREPA Retirees:

¹ The Debtors in these Title III cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s Federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 04780-LTS) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

1. On May 14, 2018, the Official Committee of Retirees (the “Retiree Committee”) filed a motion requesting an Order providing for the representation of PREPA retirees in PREPA’s Title III case (Docket # 824).

2. On May 25, 2018, SREAEE filed an Objection to the Retiree Committee’s Motion (the “Objection”, Docket # 844). SREAEE stated in its Objection that it is willing and able to appear and represent the retirees’ interests in PREPA’s Title III case.

3. On May 30, 2018, the Retiree Committee filed a *Reply in Support of Motion of the Official Committee of Retired Employees of the Commonwealth of Puerto Rico Regarding Representation of PREPA Retirees* (the “Reply”, Docket # 853). In its Reply, the Retiree Committee mentions some documents and/or information it requested from SREAEE and raised its concern about alleged possible inherent conflicts that preclude SREAEE from representing the interests of all PREPA Retirees. Specifically, the Retiree Committee mentioned that it requested “documentation supporting the SREAEE’s statement that “retirees had expressed, through the organizations which group them, that they want to be represented by SREAEE in these Title III proceedings”.² The Retiree Committee also stated that it “asked SREAEE to clarify whether this support has been expressed by individual retirees, as well as groups, and whether such individual retirees were informed of SREAEE’s potential internal conflicts before being solicited to support the SREAEE”.³

4. On June 1, 2018, SREAEE filed an Unopposed Motion for Leave to File a Sur-Reply. (Docket # 856). On that same this Honorable Court granted SREAEE’s motion to file a sur-reply, no later than June 1, 2018 at 4:00 p.m. (Atlantic Standard Time). (Docket # 857)

² At page 3. SREAEE submitted all the information requested by the Retirees Committee.

³ *Id.*

5. SREAEE is still convinced that there is no unrepresented interest in PREPA's Title III case that warrants neither the extension of the jurisdiction of the Retiree Committee nor the appointment of a new committee. The Retiree Committee's motion does not meet the burden of Section 1102 by alleging that PREPA's retirees are not **adequately represented** or not represented at all in these proceedings. "Such a showing is a necessary predicate for Court-ordered appointment of a committee under Section 1102 [...]"⁴ [Emphasis Added]

6. As it was expressed the Objection to the Retirees Committee's motion, SREAEE is willing and able to appear and represent the retirees' interests in PREPA's Title III. The retirees had expressed, through the organizations which group them, that they want to be represented by SREAEE in these Title III proceedings. (See **Joint Resolution as Exhibit 1**). For that purpose, SREAEE has retained professionals to assist the Board of Trustees in the instant case. Thus, the expansion of the jurisdiction of the Retiree Committee to cover PREPAS's retirees is unnecessary and duplicative.

7. The intervention of the Retiree Committee will create confusion with respect to the different positions that the retirees will have to assume in these Title III court proceedings, as they will be represented by two legal entities that might disagree in any moment about fundamental issues. This will create uncertainty among the retirees regarding who represents them and which advice to follow, particularly when they have already chosen SREAEE to represent them.

8. PREPA's retirees are organized in three organizations: PREPA Retiree Association, with 5499 members; UTIER Retiree Chapter, with 1066 members, and Antonio Lucchetti Autonomous District, with 957. On the composition of these organizations, they are similar to the

⁴ See: *Memorandum Opinion and Order Denying the Motion of the Ad Hoc Puerto Rico Municipalities Committee*, page 3, in case no. 17-BK-03283, Docket No. 1014.

Association of Commonwealth Employees (AEELA). They are non-profit organizations, governed by law. Finally, these organizations represent both union and non-union retirees, like professionals and managerial employees. Thus, they include all the stakeholders in PREPA's Retirement System.

9. The members of the organizations that represent PREPA's retirees authorized the SREAEE's Board of Trustees to represent them in this Title III case through their democratic processes, which included assemblies of members and resolutions of their boards of directors. **(See Joint Resolution Attached as Exhibit 1).**

10. The allegations that there is a potential conflict of interest is speculative and groundless. The Retiree Committee did not argue specific facts on which this could be apparent. In the remote event that there is an issue of potential conflict of interest, the SREAEE will execute all fiduciary and commonly known conflict of interest technics and procedures (like full disclosure, recusal, etc.) to manage any situation. Conflict of interest is a usual event inside a creditor Committee. For example, the Retiree Committee is managing three major retiree systems with important differences and applicable regulations. This is no cause to say that the Retiree Committee is unable to represent all three systems in good faith.

11. PREPA's Retirees are aware that the Board of Trustees of SREAEE has members representing active employees and this has not been a problem or a conflict of interest. On the contrary, fighting together constitutes a strength, particularly when PREPA's intentions expressed in the fiscal plan includes changes that affect both, active employees and retirees.

WHEREFORE, it is respectfully requested from this Honorable Court to take notice of the above for all relevant purposes and, consequently, deny the Retiree Committee's motion.

In Ponce, Puerto Rico, this 1st day of June, 2018.

I HEREBY CERTIFY that, on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all participants and Standard Parties. Paper copies have been mailed pursuant to Section II of the *Fourth Amended Notice, Case Management and Administrative Procedures*:

- (i) Chambers of the Honorable Laura Taylor Swain (two copies shall be delivered to the chambers):
United States District Court for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl St., Suite No. 3212
New York, New York 10007-1312;
- (ii) Office of the United States Trustee for Region 21
Edificio Ochoa, 500 Tanca Street, Suite 301
San Juan, PR 00901-1922



PO Box 10779
Ponce, Puerto Rico 00732
Tel: (787) 848-0666
Fax: (787) 841-1435

//s/Rolando Emmanuelli Jiménez
USDC: 214105

/s/Yasmín Colón Colón
USDC: 230814

/s/Jessica E. Méndez Colberg
USDC: 302108

Emails: rolando@bufete-emmanuelli.com
yasmin@bufete-emmanuelli.com
notificaciones@bufete-emmanuelli.com